

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3342 of 2007()

CRA.531/2001 of SESSIONS COURT, KOZHIKOE
CC.229/1999 of JUDL.MAGISTRATE OF FIRST CLASS, VADAKARA
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PETITIONER: ACCUSED & COMPLAINANT

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1. KUNNUMMAL ASHOKAN, S/O KANARAN,
KUNNUMMAL HOUSE, IRINGAL P.O.,
KOILANDY, KOZHIKODE DIST.
 2. P.N.SAJEEVAN, S/O RAGHAVAN,
SOUPARNIKA, VADAKARA, KOZHIKODE DIST.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.3342 of 2007

Dated this the 2nd day of November, 2007

O R D E R

The 1st petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The verdict of guilty, conviction and sentence have now become final. The 1st petitioner faces the sentence of imprisonment till rising of court. There is a further direction to pay compensation.

2. The 2nd petitioner is the complainant himself. He asserts that the 1st petitioner has paid the amount of compensation to him and he has received the amount of compensation.

3. It is for the petitioners now to appear before the learned Magistrate and satisfy the learned Magistrate that the entire compensation amount has been paid. If so, there can be no question of the learned Magistrate proceeding to execute the default sentence. If there be any doubt, the position has been made clear in the decision in **Girish v. Muthoot Capital Service (P) Ltd.** [2007(1) KLT 16)]. Notwithstanding the elapse of time prescribed, the parties can appear before the learned Magistrate and satisfy the learned Magistrate that the direction for payment of compensation has been complied with.

4. If the learned Magistrate is satisfied about the payment of compensation, then there can only be the question of the 1st petitioner undergoing the substantive sentence of imprisonment till rising of court. There can be no question of execution of the default sentence.

5. With the above observations, this Crl.M.C is dismissed.

(R.BASANT, JUDGE)

rtr/-

